

Appl. No. 10/775,116  
Amdt. Dated Apr. 13, 2006  
Reply to Office Action of Apr. 04, 2006

### **REMARKS/ARGUMENTS**

The applicant has amended his claims to more clearly point out what he considers to be his invention and to better define over the prior art. The substance of claim 2 has been incorporated into claim 1 and claims 2 and 3 have been cancelled. Claim 9 has been amended to depend from claim 1 and to further define a feature of the sensing means. Claim 10 has been amended for lack of antecedence. No new matter has been added and no new features have been presented which would require any additional searching.

Claims 1, 3-8, 12, 14, 16, 18, and 19 stand rejected under 35 U.S.C. 102(e) as being anticipated by McHardy. Claim 3 has been cancelled. Claims 1, 4-8, 12, and 14 have been amended to include the additional structure of foot pedals for providing a rotary motion input. This feature is missing from McHardy and therefore the outstanding rejection under 35 U.S.C. 102(e) has been overcome with regard to these claims. With regard to claims 16, 18, and 19, these claims all require that the controller be operative to provide power from the power source to the motor so that the angular position of the motor output is proportional to the angular position of the rotary input device. The applicant teaches and discloses angular positioning means on both the motor and the rotary input device that are incrementally responsive so that an angular relationship is maintained by the controller. McHardy does not teach or suggest a controller which provides such capability. McHardy does teach a device to be used on the output of the motor to provide feedback for an automatic speed control system, however there is no teaching or suggestion that the speed control can be achieved through relating the incremental angular

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positions of the input device and the motor. Anticipation focuses on the question of whether or not a claim reads on the product or process disclosed by a prior art reference, not on what the reference broadly teaches Kalman v. Kimberly-Clark Corp., 713 F. 2d 760 (Fed. Cir. 1983). "For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed function must be identically shown in a single reference." Diversitech Corp. v. Century Steps Inc., 850 F. 2d 675 (Fed. Cir. 1988). (Emphasis added). All of the features of claim 16 are therefore not present in McHardy for sufficiently forming a rejection under 35 U.S.C. 102. Claims 18 and 19 add further limitations to claim 16 and therefore these claims are also not met by the McHardy reference.

By the amendments and argument presented herein, it is respectfully requested that the outstanding rejection of claims 1, 4-8, 12, 14, 16, 18, and 19 under 35 U.S.C. 102 be reconsidered and withdrawn.

Claims 2, 13, and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over McHardy. The Examiner postulates that it would have been obvious to adapt the McHardy vehicle for foot, rather than hand, operation in order to accommodate a user with better leg control. The applicant respectfully disagrees. Such a notion is without logic. The McHardy device is a wheelchair accessory which suggests an occupant without leg control. Furthermore, McHardy includes a steering mechanism which requires hand and arm control and when combined with its hand-operated speed controller, both control means may be beneficially incorporated into a single device (see column 2, lines 62-67 and column 3, lines 1-14, and column 5, lines 27-34).

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To add foot pedals to McHardy would limit its use to those patients having leg control and also would eliminate the advantage of having steering and rotary input incorporated in a single device. It would also needlessly require additional weight and expense. It is therefore totally uncalled for from a proper reading of the McHardy disclosure and thus would not be an adaptation to McHardy that would be obvious to one of ordinary skill in the art to make. The Examiner has merely engaged in impermissible hindsight reconstruction of the applicant's invention using his claims as the starting point. It is respectfully requested that the outstanding rejection of claims 13 and 17 be reconsidered and withdrawn, claim 2 having been cancelled. Furthermore, the foot pedal feature of the applicant's invention being a novel and unobvious limitation now present by amendment in claims 1 and 4-15 would render these claims also unobvious for the reasons explained above if such further grounds for rejection is attempted.

The Examiner's Office Action fails to address the allowability of claim 9, however claim 9 includes the novel and unobvious features explained above and, in addition, a sensing means operative to selectively provide substantial mechanical resistance to the rotation of the rotary input device for a given amount of power supplied to said motor. As brought out in claim 10, this is achieved by electrical resistance means connected to the electrical output of a generator. These features are also absent from McHardy and are unobvious thereover because McHardy teaches means for making it easier for a handicapped person to control his wheelchair which is contrary to providing exercise by increasing the effort required to turn the input means.

In light of the foregoing amendments and argument presented above, it is believed that

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claims 1 and 4-19 presently pending in this application are now in condition for allowance. Any prima facie case of obviousness under 35 U.S.C. 103 the Examiner may have made out has been sufficiently rebutted. Allowance of all pending claims at an early date is hereby solicited.

Respectfully submitted,



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